

## Department of Community Development Staff Report

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**PROPERTY OWNER(S):** Mintbrook Developers, LLC

**APPLICANT(S):** Mintbrook Developers, LLC

**LOCATION:** Marsh Road (Route 17) and Lafayette Avenue, Bealeton

**DISTRICT:** Lee District

**PINS:** 6899-18-3742-000, 6899-17-2503-000, 6899-16-3430-000, 6899-16-4132-000 and a Portion of 6889-99-0259-000

**ACREAGE:** 32.27 Acres

**ZONING:** Mixed-Use Bealeton - Core (MU-B) – Subject to Proffers

**LAND USE:** Bealeton Service District: Commercial Office/Mixed-Use

**MEETING DATE:** March 11, 2021

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**REQUEST:** REZN-20-014259 & SPEX-20-014260: The Applicants are seeking to amend portions of a previously approved Proffer Statement, Concept Development Plan (CDP) and Code of Development (COD); and an application to amend a previously approved Special Exception for a drive-through facility.

**OUTSTANDING ISSUES:** The Board of Supervisors is advised to carefully evaluate the proposed amendments for consistency with the Comprehensive Plan, compliance with the Zoning Ordinance requirements for the Mixed-Use Bealeton Core (MU-B Core) District, and its intended development type. A staff evaluation and analysis is included within this report. A majority of the Planning Commissioners found that the amendments were consistent with the Comprehensive Plan and in compliance with the MU-B Core requirements.

**RECOMMENDATION:** The Planning Commission voted 3 to 1, with one Commissioner recusing himself, to recommend approval of Rezoning REZN-20-014259 and Special Exception SPEX-20-014260. An Ordinance to Approve REZN-20-014259 and a Resolution to Approve SPEX-20-014260 have been prepared for the Board's consideration.

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## Topic Description:

The Applicants are seeking to amend portions of their previously approved Rezoning related to commercial development in the MU-B zoned portions of Mintbrook. Additionally, they are seeking to amend a previously approved Special Exception related to the uses which can be served by the three previously approved drive-through facilities and the locations they can occur. To accommodate these requests, they are proposing changes to the Proffer Statement, Code of Development (COD) and Concept/General Development Plan (C/GDP).

Generally, these requests are intended to alter some specific requirements to fit the current needs of modern retail. The Applicants believe that the changes will allow flexibility to accommodate quality retailers in spaces they demand while keeping the design, intent and integrity of Mintbrook's Village Center. By and large these changes are to allow for the following: (1) a proposed Starbucks with a drive-through to locate at the intersection of Lafayette Avenue and Marsh Road; (2) relax standards related to the development of a Hilton Home2 Suites (currently being reviewed) at the intersection of Wolcott Street and Hall Street; and (3) allow for flexibility in the multi-story requirement of the future commercial/mixed use buildings that are proposed.

The Applicants' requested changes are listed below. Following each change is the Applicants' justification, and a staff analysis in *italics*. Please see attached redline and clean/blackline versions of the proposed Proffer Statement, COD and C/GDP, as well as the currently approved versions of each for additional information.

1. Amend the C/GDP to allow approved Building I (+/- 14,700 square feet), to be two individual buildings - Building I (+/- 2, 225 square feet) and Building W (+/- 3, 500 square feet).

Building I was originally approved as a one to two story structure (+/-14,700 square foot) to be used as a pharmacy, office or restaurant. It is now proposed to be a one and a half to two story structure (+/- 2, 225 square feet) with a restaurant use. Building W has been added to the C/GDP between Building I and Building H. It is proposed to be a one and a half to two story structure (+/- 3, 500 square feet) with the allowable uses being retail, office or restaurant.

The Applicants state that when the original C/GDP was developed (2011/2012) Building I, to be located at the future intersection of Lafayette Avenue and Route 17, was envisioned to be a large drug store anchor. As such, the approved C/GDP shows an approximately 1.6-acre site to accommodate such a use. The Statement of Justification indicates that after many years of having an independent company of leasing professionals market that parcel, no drug store has shown interest in that site. Instead, a retailer not previously contemplated, Starbucks, is highly interested in building a new franchise on that portion of Mintbrook. This requested change will allow Starbucks to purchase the new Building I lot (0.73 acres) and develop a +/- 2,225 square foot store, which is their optimum size.

To maintain the elements of the design intent of the original plan, the Applicants have added a sidewalk along Lafayette Avenue to encourage pedestrian movement through the community, as well as a landscaped berm to buffer sight lines to automobiles in the proposed drive through lane serving Starbucks. Additionally, parking is not located on the Route 17 side of the building.

*As mentioned above, Building I was intended to be both a retail anchor use as well as a gateway building indicating the presence of the village center. However, as mentioned by the Applicant, there has been no interest to date in developing that portion of the property. In the last few months, staff has had several conversations with the development and consultant teams associated with the proposed Starbucks. We believe that if these Rezoning and Special Exception Amendments are approved, a Site Plan application for the revised Building I layout will follow very quickly.*

*Staff is currently reviewing two Site Plans for commercial development within Mintbrook. The first is for Building E, which is proposed to be a Hilton Home2 Suites 4-story hotel with 107 rooms. The other is for Building H, which is planned to be a 2,579 square foot Arby's fast-food restaurant with a drive-through. It is anticipated that construction on the Arby's will start later this year; a development timeline for Hilton Home2 Suites is unknown at this time.*

*Staff believes that the proposed change will allow for Building H (Arby's) and Building I (Starbucks), to both open sometime in early 2022. Additionally, staff is also aware that retail users have expressed interest in Building W; however, those potential users are waiting until this application is acted on before moving forward. Staff believes these applications will allow this quadrant of Mintbrook to fully develop in the next two years; and furthermore, that establishing these uses (along with the hotel use under review) could potentially be a catalyst for other commercial uses to locate within Mintbrook. Alternatively, the short-term commercial development could likely be limited to only the Arby's.*

2. Allow the previously approved Special Exception for up to three drive-through facilities to be used for any combination of pharmacy, bank, laundry pick-up and fast food restaurant uses.

Mintbrook's approved rezoning includes five Special Exception uses which are addressed in the COD and C/GDP. One of the Special Exceptions allows for up to three drive-through facilities serving a pharmacy, bank, laundry pick-up and one fast food restaurant within Neighborhood B - Village Center. Conceptually, as identified on the C/GDP, the drive-through facilities were to be associated with a pharmacy in Building I, a bank in Building H, and a fast food restaurant in Building D. With this application, the Applicants are requesting that the limitation of one drive-through facility associated with a fast food restaurant be removed, and the ability to locate a drive-through facility on any of the buildings except Building A (conceptually a grocery anchor) and Building E (the previously mentioned Hilton Home2 Suites) be approved.

This request is being made to specifically accommodate the proposed Starbucks in Building I, and their need for a drive-through facility. One of the three approved drive-through facilities is being used on Building H, the previously mentioned Arby's restaurant under review. Arby's makes use of the one drive-through that is currently permitted in conjunction with a fast food restaurant. Thus, to accommodate the proposed Starbucks an amendment is needed. The limit for the total number of drive-through uses is proposed to remain at three, but the Applicants are requesting that the limit of only one fast food restaurant allowed to utilize a drive-through be eliminated. This change will allow Starbucks to operate a drive-through which is critical to its business model in a location such as this, especially in the Coronavirus era. It will also allow greater flexibility, as the third drive-through facility can occur in conjunction with another fast food use, dry cleaner, bank or pharmacy.

*Staff would note that while the amendment would allow for the third drive-through facility to locate in any building except Building A and Building E, it would most likely occur in Building W or Building D; accommodating the use would likely complicate the access and parking for the other uses in the multi-tenant commercial buildings. However, there is the potential that an end-user with a low stacking volume of drive-through users could be accommodated in a multi-tenant building, especially if it was located at an end space. It should be noted, that any drive-through use would continue to be subject to the requirements of the C/GDP and COD, and subject to review and approval by the Zoning Administrator. If significant changes to either the C/GDP or COD are needed to accommodate the future drive-through facility, the Applicants would need to pursue another Rezoning Amendment.*

### 3. Remove Open Space Amenity #12 – Village Corner Green.

The currently approved G/CDP and COD show a 0.2-acre open space amenity (#12 – Village Corner Green) located along the north side of Lafayette Avenue, between Marsh Road and Village Main Street/Hall Street. With the redesign of the CDP to accommodate the drive-through facility associated with Building I (Starbucks), the Applicants are requesting to remove this open space area. This amenity area was originally intended to be a pocket park that would allow residents and visitors to gather while having the dual purpose of providing visual screening elements along Lafayette Avenue. However, the Applicants state that this amenity area is remotely located from residential uses, which are closer to more robust amenities. Coupled with the anticipation that the commercial uses closest to this amenity will include outdoor seating and gathering areas, the Applicants believe that the Village Corner Green, as currently approved, is not likely to experience high use from either residents or visitors. They believe that this open area would be better served as a visual buffer along Lafayette Avenue.

To address buffering, a Lafayette Avenue Enhancement Buffer has been added to the C/CDP and COD. The buffer is 10 to 15 feet wide and located between a 10 foot wide sidewalk along Lafayette Avenue and the drive-through aisle/parking area associated with Building I's commercial development. The buffer is to contain a two and a half to three foot berm planted with medium to large street trees and shrubs.

*Staff concurs with the Applicants that beyond screening of the commercial uses, this small open space amenity will likely only provide limited benefit to the residents and guests of Mintbrook. As mentioned above, the Applicants have addressed the screening component by including the Lafayette Avenue Enhancement Buffer. Additionally, as mentioned by the Applicants, the commercial users nearby are likely to include outdoor seating and gathering areas. This has been addressed in the Site Plan for Arby's, which includes a small plaza/outdoor dining area; this space has also been shown on the revised C/GDP. Additionally, a small plaza/outdoor dining area associated with Building I is shown on the C/GDP. The Planning Commission included a condition related to the Special Exception Amendment, for the Board of Supervisors' consideration, which requires all restaurant uses with a drive-through to provide outdoor seating.*

### 4. Modify the Proffer Statement, COD and C/GDP which require five buildings in the MU-B zoned Village Center be a minimum of two stories to now require that 11 of the buildings be a minimum of one and a half stories.

Currently, Mintbrook is required to construct five of the 12 commercial/mixed-use buildings in the Village Center two stories or taller. These are identified on the currently approved COD as Buildings B, E, F, K and L. Additionally, Buildings H and I are required to be a minimum of one and a half stories. The Applicants are now requesting that 11 of the 13 commercial/mixed-use buildings in the Village Center be a minimum of one and a half stories or taller. This would account for every building in the Village Center, except Buildings D and A.

The Applicants state that after years of soliciting tenants, they have not been able to interest any user in the second floor of a potential building. They also state that retailers, outside of highly urbanized areas, do not locate in second floors, as the customers do not like to walk upstairs or ride an elevator to access a second floor use. The Applicants believe that office tenants are generally the most likely potential users of second floor space; however, the office market is not robust or active in Bealeton. Therefore, the Applicants wish to keep the potential for viable two-story buildings while eliminating the functional second floor requirement. In order to achieve the goals of architectural separation and visual interest, the Applicants have added language to the COD which requires commercial buildings to incorporate varied roof lines and types.

*While these changes eliminate the requirement for multi-story buildings, staff believes that ultimately the development will continue to contain several multi-story commercial/mixed use buildings. As mentioned earlier, Building E is currently under review to be developed as a four story hotel. Additionally, Building L has been included on an approved Site Plan. It is shown as a three story building that has first floor commercial retail space with eight two-story live/work units above. The Applicants continue to proffer a minimum of 18 residential units over commercial will be constructed in the Village Center. The G/CDP indicates that Buildings B, C, E, F, G, J, K and L may be developed with the live/work option. In using the approved plan for Building L, staff estimates that two or three additional buildings would need to be three stories to accommodate the required residential units. This development scenario would result in a four story hotel building, three or four three story mixed-use buildings, six or seven one and a half story buildings, and two one story buildings. This would equate to four or five of the buildings being two stories or taller, which is offset by the Applicants reducing the allowable number of one story buildings from five total to only two.*

5. Reduce the minimum ground floor height for any hotel use in the Village Center from 13 feet to 11.5 feet.

The Zoning Ordinance (§4-911.1) requires that a minimum of 13 feet in height (12 feet clear) be provided on the ground floor of a commercial or mixed use building. The Applicants contend that this requirement is appropriate for retail spaces; however, modern, non-urban hotels are typically not built with a retail dimensioned space on the first floor. As mentioned above, staff is currently reviewing a Site Plan application to develop a Hilton Home2 Suites in Building E within the Village Center. The Applicants are requesting this reduction to accommodate Hilton's prototypical design and construction, which has an 11.5-foot slab to slab height.

*Staff would mention that Building E is the only structure in this portion of frontage Block 10 (as identified in the COD), and that all other adjacent structures are located across a street or more than 300 feet away. As such, staff does not believe that this request will look out of place when comparing it to the surrounding development or compromise the development of the Village Center.*

6. Reduce the requirement for active commercial uses along the identified key pedestrian streets, if a hotel use is located in Building E.

The Zoning Ordinance (§4-906.1.A) requires active commercial uses for at least 75% of the ground floor space located along the key commercial pedestrian streets, as identified in the General Development Plan. The Board of Supervisors (per §4-906.2) has the authority to modify this requirement where a waiver would not (a) compromise the traditional town vision embraced by this Ordinance or (b) conflict with the adopted Comprehensive Plan for the area and where at least one of the following criteria is met:

- A. the required mix of uses is not physically achievable on an individual site because of the size or other physical characteristics of the site;
- B. the broader mix of uses in the immediate area compensates for providing the mix within a particular project; or
- C. the County's Comprehensive Plan specifically envisions a different mix of uses.

The currently approved C/GDP states that a minimum of 77% of the ground floor space along key pedestrian streets will be active commercial. Additionally, the COD (as it relates to the hotel use) states "accessory hotel components and activities such as a restaurant and/or bar, convenience and/or gift store, meeting rooms, and lobby facilities will constitute active commercial uses when located on the ground floor." The Applicants are requesting to reduce the commitment of 77% to 60% if a hotel use is developed in Building E and remove the language related to "accessory hotel components" in the COD.

As mentioned above, a Site Plan for a hotel use in Building E is currently being processed. The Applicants state that a hotel use along a key pedestrian street will help promote a lively Village Center and a walkable community, which are two of the primary tenets of Mintbrook and the MU-B District. The Applicants believe that hotel patrons will be some of the most prominent users of the adjacent active commercial uses and amenities, as they will not be located within the hotel. Additionally, the Applicants state that to obtain 75% active commercial if the hotel use is developed, the sizes of the remaining buildings along the key pedestrian streets would need to become larger. They believe that market conditions may not allow this requirement to be met. Furthermore, they state, increasing the size of the remaining buildings along the key pedestrian streets will require reducing the size of the Village Central Plaza, which is intended to be a vibrant centerpiece of the Village Center. Lastly, the applicants contend that active commercial uses will be located within the other portions of Mintbrook which are zoned MU-B.

*The proposed plan includes between 60% and 75% of active commercial uses along the key commercial pedestrian streets, depending if a hotel use is developed in Building E. Residential uses account for approximately 42% of the total anticipated MU-B development square footage, and institutional uses are anticipated to account for 1% of the total development. The remaining 57% (+/- 310,000 square feet) will be developed as commercial. As there is currently not a robust office market, it is likely that this space will primarily develop with active commercial uses.*

*The Planning Commission considered this request, when making its recommendation to the Board of Supervisors, and a majority believed that the request was justified. The Board of Supervisors should*

*evaluate the proposed mix of uses and determine if the criteria (listed above) for approving a modification has been met.*

7. Modify the Code of Development's General Parking Standards to remove the 5-foot setback where a commercial parking lot abuts another property.

Currently, the COD requires: "Where a parking lot is located on the perimeter of a lot, it will be set back at least 10' from any public street right-of-way and 5' from all other property lines." With this change the Applicants are seeking to change the "5' from all other property lines" to be five feet from residential property lines and private streets. This change only impacts commercial lots which will be created within the MU-B portions of Mintbrook, primarily where a commercial parking lot abuts another commercial parking lot. The Applicants state that with this change parking lots can be designed (in appropriate instances) to adjoin each other, instead of each lot being mandated to set back five (5) feet from the common property line. The Applicants believe that this change will shorten the distances between commercial and retail uses, which will encourage pedestrians to walk among businesses easily.

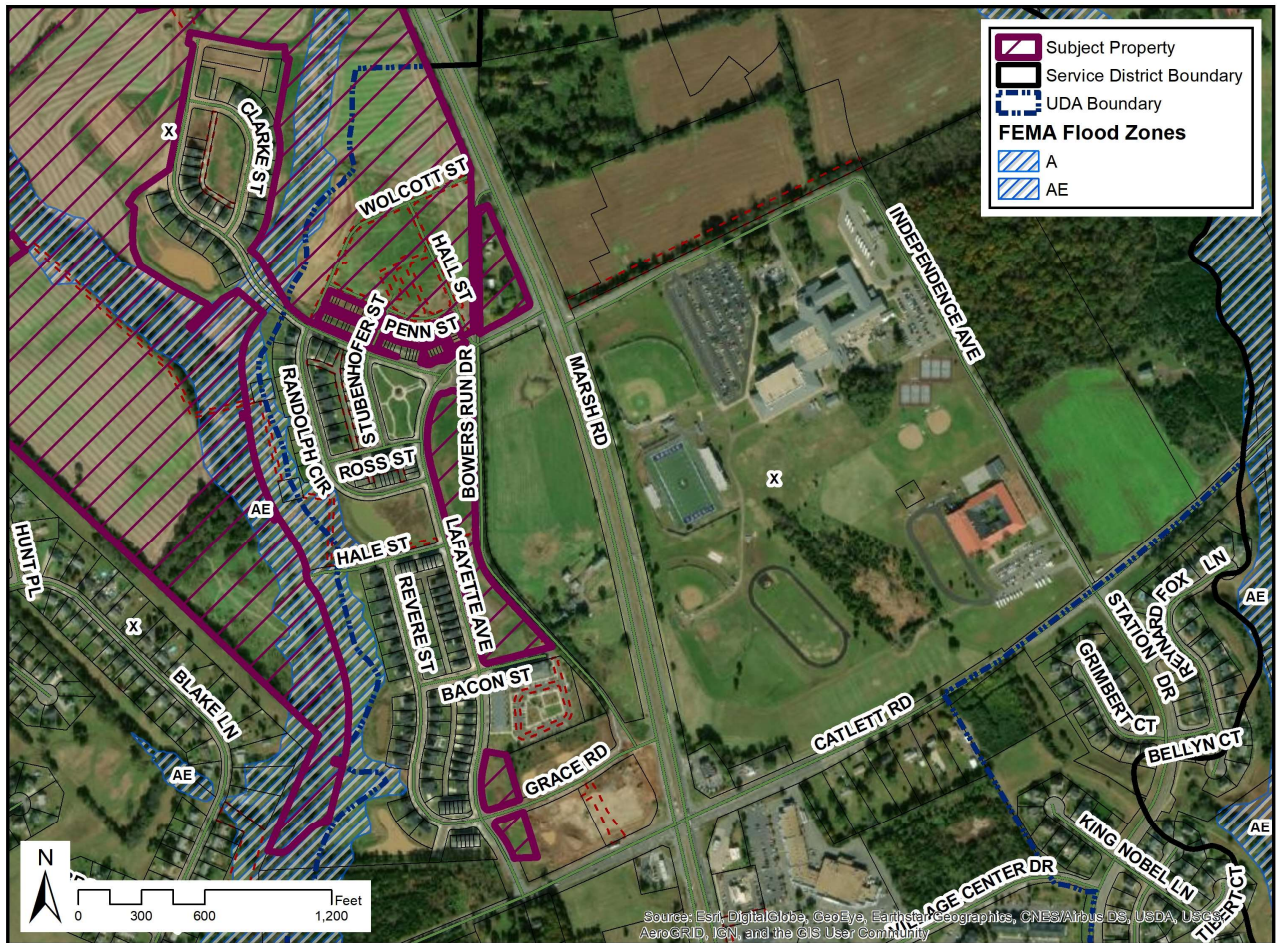
*Staff would mention that when the Code of Development's General Parking Standards were developed the belief was that the Village Center would generally develop as one lot with lease areas made available to the end users. The current trend is leading towards subdividing commercial lots within the Village Center and ultimately selling them to the end users. This has been true for the Hilton Home2 Suites, Arby's and the proposed Starbucks. As such, the best and most efficient vehicular circulation routes and parking layouts can cross over proposed lot lines. By requiring a five foot setback from all property lines, a minimum of 10 feet between a lot line and adjacent parking areas is being added. Staff believes this can create an unusable open area with little value, and lead to a less cohesive plan. Additionally, it can increase the appearance of individual commercial pad sites and minimize the opportunity for the development to appear and act as a master planned inner-connected development.*

#### **Planning Commission Action on February 24, 2021:**

On February 24, 2021, the Planning Commission discussed this item at its work session and conducted a public hearing. At the public hearing, Russell Marks (Applicant), thanked staff and the Planning Commission for their continued support of the project. He provided background and additional justification related to the requested changes. There were no additional speakers. Following the public hearing and a brief discussion, the Planning Commission unanimously voted to 3 to 1, with one Commissioner recusing himself, to recommend approval of Rezoning REZN-20-014259 and Special Exception SPEX-20-014260.



## Site Aerial Map



### **Project History:**

On April 12, 2012, the Board of Supervisors approved a Comprehensive Plan Amendment (CPAM11-LE-001), Rezoning (REZN11-LE-002), Special Exception for Floodplain Crossings (SPEX12-LE-003) and Comprehensive Compliance Review (CCRV11-LE-001) for the Mintbrook project. The Comprehensive Plan Amendment expanded the Bealeton Service District by approximately 78.51 acres, and designated portions of the property with land use categories of Commercial Office/Mixed Use, Medium Density Residential, School/Church/Fire/Rescue/Recreation, and Park/Open Space. The approved Rezoning designated a majority of the property, 198.4 acres, to the Planned Residential District (PRD) zoning district. This portion of the project was to be used for a variety of single-family (attached and detached) units. The eastern portion of the project, 43.19 acres, was zoned Mixed Use Bealeton (MU-B) Core, and planned for a mix of commercial and office uses with some limited multi-family dwelling units. The northern 90.86 acres was zoned RA (Rural Agriculture), and was planned to contain a future public school or park, recreation area, and fire station. With this original approval, Mintbrook was permitted up to 475 dwelling units, 403 in the PRD zoned area and 72 in the MU-B zoned area. Additionally, the project was permitted a maximum of 345,000 square feet of commercial and office development in the MU-B zoned area. With the approval of REZN11-LE-002, the entire



property was subject to the approved Proffer Statement, Concept Development Plan (CDP) and Code of Development (COD). REZN11-LE-002 also permitted by Special Exception a hotel, an active commercial use between 20,000 square feet and 70,000 square feet, and a maximum of three drive-through facilities serving a pharmacy, bank, laundry pick-up and one fast food restaurant within Neighborhood B - Village Center.

The Board of Supervisors approved a Rezoning Amendment (REZN14-LE-004) for Mintbrook on March 13, 2014. This amendment approved uses in the “Future Mixed Use Area” of Neighborhood A, Block 5. The concept plan included commercial uses and a maximum of 100 multi-family units which are both income and age restricted. With this amended approval, Mintbrook was permitted to build a maximum of 575 dwelling units, 403 in the PRD zoned area and 172 in the MU-B zoned area. The project’s permitted commercial and office development in the MU-B zoned area was reduced by 39,622 square feet to a maximum of 305,378 square feet.

On June 8, 2017, the Board of Supervisors approved a second Rezoning Amendment (REZN-16-005320) and a Special Exception (SPEX-16-005322) for Mintbrook. There were four significant changes associated with these applications, which amended portions of the previously approved Proffer Statement, CDP and COD. They were (1) changing the previously approved 54 stacked (two-over-two type) multi-family units to 54 single-family attached units (townhomes) and allowing the townhome units by Special Exception; (2) modifying the commercial and residential phasing requirement to build additional homes earlier in the project; (3) redesign the commercial areas to relocate the grocery/retail anchor store to a new location adjacent to Route 17 and further away from the residential areas; and (4) provide a conceptual design for the commercial areas along Lafayette Avenue. This approval did not change the 575 dwelling units permitted in Mintbrook; however, the project’s permitted commercial and office development in the MU-B zoned area was increased by 4,622 square feet to a maximum of 310,000 square feet.

The Board of Supervisors approved a minor Rezoning Amendment (REZN-17-008104) on November 9, 2017. This application amended portions of the previously approved Proffer Statement and Code of Development (COD) within the Planned Residential Development (PRD) zoned portion of the project to allow for more flexibility in the development and location of one and a half story homes throughout the residential portions of the project. Another minor Rezoning Amendment (REZN-20-013106) was approved by the Board of Supervisors on July 9, 2020. This amendment removed two proffers related to the phasing of residential and commercial development with the Village Center portion of the project.

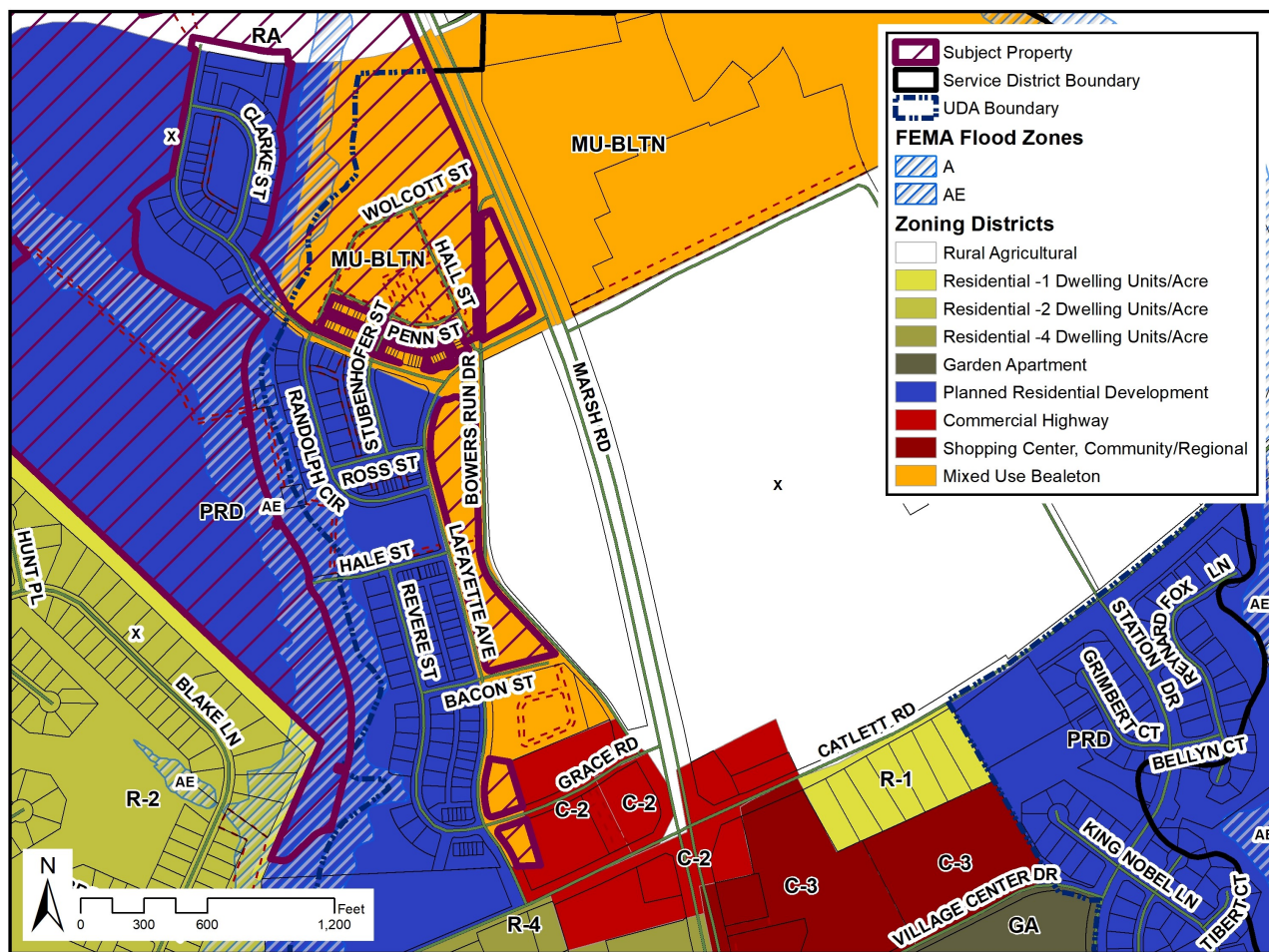
In addition to the legislative applications approved by the Board of Supervisors, the following Code of Development Site Plan applications have been approved by the Zoning Administrator:

- Mintbrook Infrastructure Plan – SPMA13-LE-007 – Phase I Grading and Infrastructure
- Mintbrook Phase A – SPMA14-LE-002 – 183 Single-Family (Attached and Detached) Residential Units
- Mintbrook Senior Residences – SITP-14-002116 – 80 Multi-Family Residential Units.
- Mintbrook Neighborhood B – SITP-16-005617 – 30,946 square feet of Retail/Mixed-Use, 8 Live/Work Residential Units Above Retail and 54 Single-Family (Attached) Residential Units

Furthermore, the following Code of Development Site Plan applications are currently under review by Community Development staff:

- Hilton Home2 Suites at Mintbrook – SITP-20-012959 – 107 Room/4-Story Hotel
- Arby's at Mintbrook – SITP-20-013595 – 2,579 Square Foot Fast-Food Restaurant with a Drive-Through

### Location/Zoning Map



### **Location, Zoning and Current Land Use:**

The entire Mintbrook project is 332.41 acres; however, the portion of the property affected by this application accounts for a 34.4-acre area zoned Mixed Use Bealeton (MU-B) Core, with proffers. Mintbrook is located off Marsh Road (Route 17) north of Route 28, in Bealeton. The largest MU-B Core portion of the property is located along Marsh Road (Route 17) north of the intersection of Lafayette Avenue. Additionally, there are four smaller MU-B Core zoned parcels which are internal to Mintbrook and along the east side of Lafayette Avenue. The majority of the MU-B area within Mintbrook, is currently vacant, with the only exception being the townhomes along Hancock Street and the Mintbrook Senior Apartments (at the intersection of Lafayette Avenue and Bacon Street). It should be stated that these amendments only effect the undeveloped MU-B areas of Mintbrook and do

not impact the previously developed areas. As mentioned above, staff is currently reviewing two Code of Development Site Plans within Neighborhood B.

### **Surrounding Zoning and Current Land Use:**

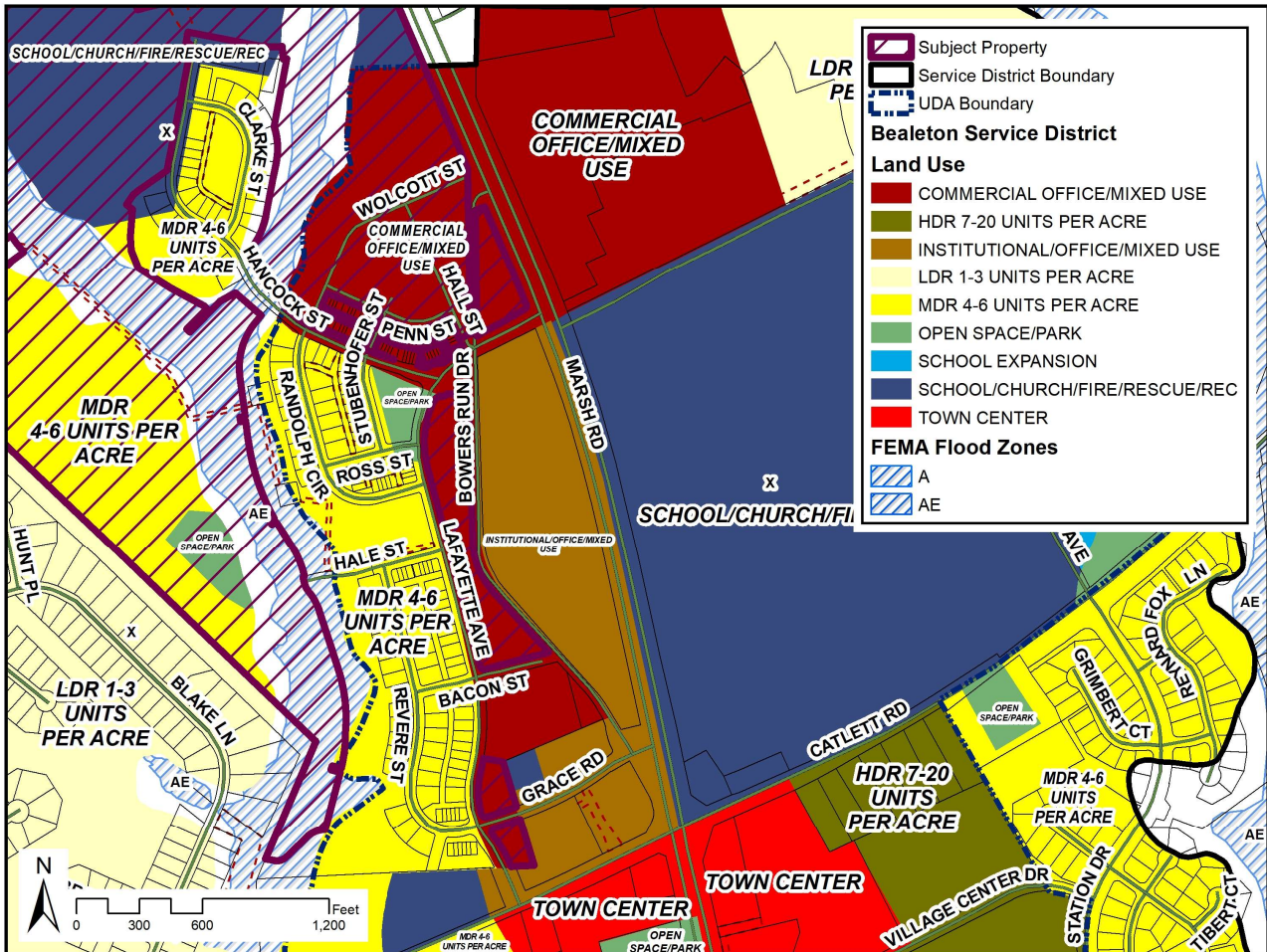
The properties surrounding the application area are zoned Planned Residential Development (PRD), Mixed-Use Bealeton (MU-B), Commercial – Highway (C-2), and Rural Agriculture (RA). The PRD zoned portions are generally the remainder of Mintbrook, which are planned for and being developed with a mix of single-family residential attached and detached units. There is also a PRD zoned parcel to the south, along Catlett Road (Route 28), which is undeveloped and subject to the previous Freedom Place approvals. Several properties on the east side of Marsh Road (Route 17) north of Independence Avenue and Lafayette Avenue, known as White Marsh, are zoned MU-B. While currently vacant, White Marsh is planned for a mix of commercial and residential uses. There is no known time frame for the development of White Marsh. The properties at the intersection of Marsh Road (Route 17) and Catlett Road (Route 28) are all zoned C-2. The Lim Property is in the northwestern quadrant of the intersection. It contains a Sheetz convenience store with gasoline service, and is planned for a mix of commercial and office uses. The other three quadrants of the intersection are developed with a Popeye's fast food restaurant and two 7-11 convenience stores with gasoline service. The properties along Marsh Road (Route 17) between the C-2 and MU-B zoned areas are zoned RA. Liberty High School and Grace Miller Elementary are located on the east side of Marsh Road. The property on the west side is being used for both residential and agricultural purposes.

### **Comprehensive Plan/Land Use:**

Mintbrook is within the Bealeton Service District. The area that relates to these amendments has a land use designation of Commercial Office/Mixed Use, within the Bealeton Town Center. It is also within the designated Urban Development Area (UDA) of Bealeton. The Commercial Office/Mixed Use area is planned to be one of the areas that should emerge as the new, traditional downtown of Bealeton with a dominant presence of commercial uses, both office and retail. Residential uses within this area should include a combination of residential units over commercial uses, live-work units, townhouses or multi-family units, with small lot single-family homes at the outer edges.

The Service District Plan envisions Bealeton as a “people friendly” community of distinct neighborhoods, built around a town center. Shopping and recreational options, schools, town hall, offices, library, and Post Office are to be in the Town Center, along streets with ample sidewalks, and large street trees. Housing in Bealeton is to range in size, type and price – from apartments over shops, apartments for the elderly, townhouses, and lower density single-family detached housing in neighborhoods further away from Route 17. The Plan also states that Route 17 will be a four-lane, divided boulevard with wide sidewalks, street trees and crosswalks that create a safer, pedestrian friendly experience. In addition, the design character of the corridor is to include mixed-use buildings oriented toward the roadway to further enhance the pedestrian experience.

## Land Use Map



The Bealeton Town Center is specifically planned to be a mixed-use area developed using traditional town planning standards and principles, which should result in a “traditional town” pattern of new development straddling the Route 17 “Main Street Boulevard” north of Route 28. The Plan states that mixed-use development in these areas needs to maintain a strong commercial presence, as these areas are not planned primarily for residential use. Retail, office and institutional uses, together with residential, civic, religious and cultural uses and activities, form the heart of most traditional town centers, and this variety should be the case in the Bealeton Town Center. Bealeton is planned to serve both local and regional retail shopping demands, and eventually develop into a regional center for expanded office and similar uses that further the County’s economic development goals. A combination of “main street specialty retail” and “destination retail” is envisioned and successful development would require a different orientation from strip commercial centers. “Main street specialty” uses should be located within a pedestrian-friendly environment and would include a dense mix of retail, service, dining, civic, office and residential uses. “Destination retail,” is to be carefully sited intermittently within the “main street specialty” areas. Residential uses of varying types, densities and demographic focus should be considered for all mixed-use projects.



The Service District Plan pays particular attention to Route 17, as today it exists as a major regional arterial route that uncomfortably divides the town in two. Bealeton anticipates the day when Route 17 will become the Main Street of Bealeton in the form of an attractive and walkable boulevard that knits the town together, while still respecting the need for regional through traffic. New buildings should front Route 17, and be designed with appropriate architectural massing, scale and aesthetic presence reflecting a traditional town character. Any appearance of a suburban strip must be consciously avoided. Important local streets, including Lafayette Avenue, help to establish a highly functional street grid and should be developed with a traditional town form, incorporating a range of commercial, residential and civic uses to create a sense of “place” for the community.

As mentioned previously, this portion of the property is within the Urban Development Area (UDA) of Bealeton, which is anticipated to be an area of higher density with reasonably compact development that can accommodate 10 to 20 years of projected growth. The Comprehensive Plan states that UDAs are for compact, mixed use development, with residential densities of at least 12 units per acre for multi-family development. It goes on to state that in implementation, densities and intensities for individual parcels or groups of parcels may be higher or lower than the general standards, as long as they are met in some combination within the UDA area as a whole. The UDA portion of the Comprehensive Plan also includes statements and concepts which reinforce urban mixed-use development with traditional town design principles.

The Bealeton Service District Plan includes general town center guidelines, design principles appropriate for a traditional town, design principles that are especially critical in mixed-use areas, and design principles for commercially based mixed-use areas. These as well as several figures which illustrate the design concept have been attached for reference.

### **Proposed Rezoning Analysis:**

This application is seeking to amend portions of Mintbrook’s approved Rezoning within the Mixed-Use Bealeton (MU-B) Core zoned portion of the project. A revised Proffer Statement, Concept Development Plan (CDP) and Code of Development (COD) have been submitted for consideration. It should be noted that the revisions to the Proffer Statement and COD would apply to Mintbrook’s entire project area; however, they only effect the MU-B zoned portions which are undeveloped. The main components of this request are outlined in the Topic Description section of this report, see above. Additionally, a redline and clean/blackline versions of the proposed Proffer Statement, COD and C/GDP, as well as the currently approved version of each have been attached for additional information.

Section 13-210 of the Zoning Ordinance gives additional guidance when reviewing and considering approval of Rezoning applications; it states:

*“Proposed amendments shall be considered with reasonable consideration of the existing use and character of the area, the suitability of the property for various uses, the trends of growth or change, the current and future requirements of the County as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community and the County and the requirements for schools, parks, playgrounds, recreation areas and other public*

*services; for the conservation of natural resources and preservation of floodplains; and for the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County. These considerations shall include, but not be limited to, Comprehensive Plans or parts thereof, capital improvements programs, relation of development to roads or road construction programs, proximity of the development to utilities and public facilities, the existence of an Agricultural and Forestal District created pursuant to Chapter 36 of the Code of Virginia, and any applicable standards contained in Article 5.”*

The Board of Supervisors should consider these matters when making its decision. Particular attention should be paid to the existing use and character of the area; the character for the area as envisioned in the Bealeton Service District Plan; and the requirements for schools, parks and recreation areas, as well as other public services. A summary and analysis of the requested revisions has been provided in the Topic Description (above), and additional staff analysis is provided below.

### **Zoning Ordinance Analysis:**

The Mixed Use Bealeton (MU-B) Core sub-district is intended for areas designed to function as a center and major focal point for a service district, with a concentration of active store-front style commercial uses to include retail, restaurants and services as well as a broad range of office and employment uses. The Core is to function as the gathering place for the community, including the opportunity for outdoor events. Multi-family and attached housing types are to be included in the Core to help create a vibrant round-the-clock center and to provide a variety of housing needs.

### **4-918 Standards for Approval of a MU District**

In addition to the specific requirements of MU District and the standards for rezoning for all development contained in Section 13-200 (see below), the following standards shall be utilized and adhered to by the Planning Commission and Board of Supervisors in determining whether to approve the proposed development. Following each standard is a staff evaluation in *italics*.

1. The Board may use its discretion to prioritize mixed-use applications to best support the Comprehensive Plan. A proposed MU-General development must be demonstrated to not detract or otherwise draw commercial development from a future or existing Core, as designated in the Comprehensive Plan. Thus, priority may be given to the development of a vital town or village center over, for example, a MU-General development at the edge or out of walking distance to the anticipated focal or town center.

*This application is for an amendment of a prior Rezoning for land in the MU-Core District; therefore, this standard is not applicable.*

2. The design of the development is such that it will achieve the stated purpose and intent of the MU District, contributing to the creation of a vibrant pedestrian oriented mixed use area within the Service District that feels and functions like a traditional town providing a center for employment as well as a center for retail, service, entertainment, cultural and civic activities for workers, residents and visitors.



*The MU-B Core sub-district is intended for areas designed to function as a center and major focal point for the Service District, with a concentration of active store-front style commercial uses to include retail, restaurants and services as well as a broad range of office and employment uses. The proposed plan continues to include the opportunity for retail, service, and employment. In the Village Center portion (Neighborhood B) of Mintbrook six of the 13 proposed commercial buildings are located close to and oriented to address the key pedestrian streets. Staff believes that this portion of the development will be vibrant and function like a traditional town center. The remaining commercial buildings in the Village Center are generally designed to function as retail pad sites, with three of them permitted to include drive-through facilities and one being a grocery store/retail anchor with a larger foot print. The commercial buildings in the MU-B portion of Neighborhood A all are situated close to and address Lafayette Avenue. These buildings are designated to be a mix of retail, office, and restaurant uses.*

*The Board of Supervisors should evaluate the C/GDP and COD and determine if the proposed site design, mix of uses, and development program meet the purpose and intent of the MU-B Core District. A majority of the Planning Commissioners believed that this standard was met.*

3. The development is in substantial conformance with the adopted Comprehensive Plan with respect to type, character and intensity of use and public facilities.

*The character envisioned for this area of Bealeton is similar to that of the MU-B Core zoning district, a vibrant mixed-use town center. As stated previously, the Comprehensive Plan envisions a “dominant presence of commercial uses, both office and retail” for the Commercial Office/Mixed Use designation, within the Bealeton Town Center. It goes on to state that “mixed-use development in these areas needs to maintain a strong commercial presence, as these areas are not planned primarily for residential use.” The Comprehensive Plan also anticipates that Marsh Road (Route 17) will become the Main Street of Bealeton in the form of an attractive and walkable boulevard that knits the town together. The plan suggests that new buildings should front Route 17, and be designed with appropriate architectural massing, scale and aesthetic presence reflecting a traditional town character. Furthermore, any appearance of a suburban strip must be consciously avoided. To address the Comprehensive Plan’s vision for Route 17, the Applicants continue to include a 30 foot wide Corridor Enhancement Buffer that contains a trail, street trees, flowering trees, shrubs, as well as wall and berm elements. Additionally, they continue to ensure that there will not be any parking between the building fronts and Route 17.*

*A majority of the Planning Commissioners believe that the proposal is in substantial conformance with the adopted Comprehensive Plan. The Board of Supervisors should consider conformance with the Comprehensive Plan in its evaluation of the Rezoning Amendment application.*

4. The development provides for a mixture of compatible land uses, including a mixture of uses within buildings where appropriate.

*The previous Mintbrook approvals determined that this standard was satisfied. There continues to be a mix of compatible land uses as well as the commitment to have residential units above commercial use in the Village Center.*

5. The development provides for a mixture of housing types, sizes, and affordability. Housing in a range of sizes and styles is integrated throughout the development. Lower priced units are scattered throughout the neighborhood rather than concentrated in one location. Opportunities for accessory apartments and live-work units are provided where appropriate.

*The MU-B portions of Mintbrook allow for single-family attached units (townhomes), active adult multi-family units (apartments) which are income restricted and residential units over commercial. The requested changes do not affect any of the previously approved residential uses.*

6. The development is designed with a pedestrian orientation, with clearly defined continuous sidewalks and paths enhanced by trees, pocket parks, seating and other streetscape elements. Buildings are located close to the sidewalk with the mix of uses providing for a variety of possible pedestrian destinations within walking distance of each other. Defined pedestrian connection shall be provided between parking areas and the buildings they serve.

*All of the uses continue to be accessible by the pedestrian. Additionally, sidewalks and street trees are still included along both sides of the public and private streets in Mintbrook. There is also a network of trails which runs along Marsh Road (Route 17) and the floodplain in Neighborhood B. These trails connect to the trail system within the residential portions of Mintbrook and will eventually connect to future trails within the Bealeton Service District. The commercial and residential buildings are generally located in close proximity to the street, with entrances that address the street.*

7. Buildings and spaces within mixed use developments are designed to create neighborhoods that are attractive and inviting, and in keeping with the feel, style and architectural vernacular of a traditional town in the Virginia piedmont. The elements of building height, setback, yards, architecture and spatial enclosure as established by the Code of Development for the project all contribute to the appearance and function of the development.

*The Code of Development includes design standards which relate to building height, setback, yards, architecture and spatial enclosure. These standards generally remain the same as those that were included in the original approval, with minor revisions as described above. Staff believes that these standards will continue to create an attractive inviting development.*

8. Streets are designed to consider their influence on the character of the neighborhood as well as their carrying capacity. Street networks provide multiple connections internally and connect through to adjoining properties where appropriate, providing multiple routes to any destination. Generally, local streets are narrower, minimizing pavement. Parking is accommodated on the street. Utilities are provided within the street wherever possible, in order to accommodate a streetscape that includes street trees as well as sidewalks.

*All of the streets (public and private) include on-street parking, sidewalks and street trees along both sides of the street. Additionally, their design includes narrow pavement widths and the opportunity for underground utilities. In all cases the streets have been designed to follow a generally rectilinear block pattern with multiple connections to other streets. This layout will allow for multiple routes to any destination within the residential or commercial portions of Mintbrook or the greater region.*

9. Open space is treated as an integral component of the development design. Small parks are provided throughout the development within walking distance of all residents. In core areas, small open spaces such as plazas or courtyards are provided at appropriate locations to provide a focal point for the community and to serve as gathering places. Larger developments provide for active recreational opportunities for residents. Natural and environmentally sensitive areas are preserved and protected. The open spaces within the development are connected by sidewalks or trails, and connected to other open spaces.

*The MU-B Core district requires 10% of the total area to be useable open space which meets standards contained within the Ordinance. The proposal has 12% of the total area being developed as usable open space, with the opportunity for smaller gathering places located throughout the site. In all cases these spaces are connected to each other and the remaining development by sidewalks. In some instances they are also connected by trails. The only change from the previous approval is removing Village Corner Green and adding a sidewalk in its place, see the Topic Description Section of this Staff Report.*

*In addition to the open space areas specifically within the MU-B Core portion of Mintbrook, multiple passive and active recreational areas are being developed within the PRD portion of Mintbrook. These areas are connected by sidewalks and/or trails and will be accessible to the residents, patrons and employees of the MU-B Core areas of the project.*

10. The development minimizes the amount of parking provided, maximizing opportunities for on-street parking and shared parking. Parking for commercial uses are located to the rear and side of buildings and dispersed in smaller lots where possible, so that it does not dominate the street. Larger parking lots are laid out to accommodate future intensification and redevelopment in appropriately sized blocks. In residential areas, garages are predominately located to the rear, with alley access, returning the street to the pedestrian. Where garages are fronting on streets rather than alleys, they are designed such that they are not a prominent feature of the street, with side-loading doors and greater setbacks than the remainder of the house.

*The Applicants continue to minimize the parking to be provided and included the opportunity for shared parking; on-street parking has been included along all streets. The parking for the commercial uses is generally located to the rear or side of the buildings. The townhome units are rear loaded and include a single car garage with an additional space in the driveway area. Additionally, the residential areas have access to the on-street parking areas.*

11. Lighting is traditional in form and consistent with the human-scale orientation of the development, oriented toward pedestrians and minimizing impacts on dark-skies.

*The type of street lighting remains the same as the previous approval. It is traditional in form and consistent with the human-scale and oriented toward pedestrians.*

12. The proposed sign package is consistent with the human-scale orientation of the development, oriented toward pedestrians rather than vehicles and promoting a main street character.

*A sign package is currently under review and will be presented to the Planning Commission at a later date.*

13. The development efficiently utilizes the available land and protects and preserves floodplains, wetlands and steep slopes.

*The development area remains the same as the previous approvals. It maximizes the available land while protecting sensitive environmental features.*

14. The proposed development provides for a reasonable and sustainable transition to adjoining development, with open space, landscaping and/or larger lots utilized to provide buffers where appropriate. The development is designed to prevent substantial injury to the use and value of existing surrounding development, and shall not hinder, deter or impede use of surrounding properties in accordance with the adopted Comprehensive Plan.

*The transition to adjoining development continues to be either open space, similar uses, or similarly scaled buildings. Staff believes this transition is reasonable and sustainable. Staff does not believe that the proposed development will hinder, deter or impede use of surrounding properties in accordance with the adopted Comprehensive Plan, or be detrimental to the use and value of existing surrounding development.*

15. The development shall be located in an area in which transportation, police and fire protection, other public facilities and utilities, including water and sewer, are or will be available and adequate for the uses proposed; provided, however, that the applicant shall make provision for such facilities or utilities which are planned but not presently available.

*Public facilities and utilities are available and appear to be adequate for the proposed use. It should be mentioned that the original approvals included the dedication of land for a fire station, schools or recreational facilities, recreational fields, and a community center. This land dedication continues to be part of the overall Mintbrook project.*

### **Special Exception Analysis:**

The standards below apply to the Special Exception Amendment related to drive-through facilities in the MU-B Neighborhood B - Village Center, portion of Mintbrook. Following each standard is a staff evaluation in *italics*.

Staff would point out that previous special exceptions for townhomes in the MU-B Core zoning district, a hotel, and a commercial building larger than 50,000 square feet were previously evaluated and approved. These uses remain unchanged with this request.

It should also be mentioned that the requested Special Exception Amendment, as well as each of the previously approved Special Exceptions, has additional design standards and requirements within the Code of Development. These additional requirements mitigate many of the concerns that staff would typically have.

## **5-006 General Standards for Special Permits and Special Exception Uses**

In addition to the special standards set forth hereinafter for specific uses, all Special Permit uses shall also satisfy the following general standards:

1. The proposed use shall be such that it will not adversely affect the use or development of neighboring properties. It shall be in accordance with the applicable zoning district regulations and the applicable provisions of the adopted Comprehensive Plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and/or use of adjacent or nearby land and/or buildings or impair the value thereof.

*Staff does not believe that the proposed amendment to the drive-through facilities will adversely affect the use or development of neighboring properties. If the Board of Supervisors determines that the requested Rezoning Amendment is consistent with the vision and applicable provisions of the adopted Comprehensive Plan, it should be able to make the same determination for the requested Special Exception Amendment.*

2. The proposed use shall be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.

*Transportation impacts for the entire Mintbrook project were analyzed in the original Rezoning as part of the review and approval of a Traffic Impact Analysis (TIA). The TIA has been updated with each Site Plan submission, and the Applicants continue to proffer that a traffic analysis will be submitted with each Site Plan. This will permit the County and VDOT to determine the adequacy of the proposed improvements and their cumulative impacts. Should unforeseen impacts arise they can be addressed during the Site Plan review. Therefore, staff believes that any pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.*

3. In addition to the standards which may be set forth in this Article for a particular category or use, the BZA and Board may require landscaping, screening, yard requirements or other limitations found to be necessary and appropriate to the proposed use and location.

*Landscaping, screening, and yard requirements for the drive-through uses are included in the Code of Development (COD) and on the Special Exception Plat. The Planning Commission included a condition which requires the drive-through facilities and service areas to be effectively screened from public streets, private streets and neighboring residential properties.*

4. Open space shall be provided in an amount at least equal to that specified for the zoning district in which the proposed use is located.

*There is no specific open space requirement for this use in the MU-B Core district. The MU-B Core district requires 10% usable open space across the development area. The application is proposing 12% usable open space throughout the MU-B Core portions of the project.*

5. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Low impact development techniques are encouraged by the County and shall be incorporated into the site and facility design when deemed appropriate by the Applicant after consultation with appropriate county officials. Parking and loading requirements shall be in accordance with the provisions of Article 7.

*All of the proposed improvements related to parking, loading, and other necessary facilities appear to be adequate. All required improvements will be further evaluated during the Site Plan review process to ensure that the proposed site development meets all applicable state and local regulations.*

6. Signs shall be regulated by the provisions of Article 8, except as may be qualified in the Parts that follow for a particular category or use. However, the BZA and the Board, under the authority presented in Section 007 below, may impose more strict standards for a given use than those set forth in this Ordinance.

*No signage is proposed with this application. A Signage Design Package for Mintbrook has been submitted and is being reviewed.*

7. The future impact of a proposed use will be considered and addressed in establishing a time limit on the permit, if deemed appropriate. Existing and recent development, current zoning and the Comprehensive Plan shall be among the factors used in assessing the future impact of the proposed use and whether reconsideration of the permit after a stated period of time would be necessary and appropriate for the protection of properties in the vicinity and to ensure implementation of the Comprehensive Plan.

*No time limit is proposed with this application. Staff would note that there is not a time limit associated with any of the previous Special Exceptions approved at Mintbrook.*

8. The proposed use shall be such that air quality, surface and groundwater quality and quantity, are not degraded or depleted to an extent that would hinder or discourage the appropriate development and/or use of adjacent or nearby land and/or buildings or impair the value thereof.

*Staff does not believe that the proposed modification to a previously approved drive-through facility will degrade or deplete air quality, surface and groundwater quality and quantity. Additionally, the change would have little to no effect on adjacent or nearby land and/or buildings. This standard will be further evaluated during the Site Plan review process to ensure that the development meets all applicable federal, state, and local regulations should this application be approved.*

9. Except as provided in this Article, all uses shall comply with the lot size, bulk regulations, and performance standards of the zoning district in which located.

*All applicable standards of the MU-B Core have been developed and addressed in the COD. The development will be required to adhere to those requirements as well as those in the Zoning Ordinance. This will be further evaluated and addressed during the Site Plan review.*



### **Agency Comments:**

Staff and the appropriate referral agencies have reviewed the application and have the following comments. Many of the agency comments have been incorporated into the body of the report and/or addressed by the Applicant through resubmission of materials. Below are the outstanding items which have yet to be addressed. Staff has noted how the items will be addressed in *italicized* language following the comments.

#### Fauquier County Sheriff's Office (FCSO):

No comments.

#### Department of Fire Rescue & Emergency Management (DFREM):

This office does not oppose the rezoning or special exception request. Water supply and fire apparatus access will be checked at a future construction plan submission.

*Provided for reference.*

#### Virginia Department of Transportation (VDOT):

According to the SOJ, the original COD and approved SE allows for a total of three drive-throughs, only one of which is to be used for a food user. That original SE will be used by Arby's and the proposed change will allow Starbucks to operate a drive-thru. The applicant needs to demonstrate that the proposed changes to the pad sites, including the drive-thru for the food user, and its related trip generation were already accounted for in the original Traffic Impact Analysis. The applicant should address any additional traffic impacts that may be associated with the amendment.

*The Applicant continues to proffer that a traffic analysis will be submitted with each Site Plan. This will permit the County and VDOT to determine the adequacy of the proposed improvements and their cumulative impact. Should unforeseen impacts arise they can be addressed during the Site Plan review.*

#### Fauquier Water and Sewer Authority (FCWSA):

The Authority has reviewed the Mintbrook – Rezoning Amendment and Special Exception (REZN-20-014259 and SPEX-20-014260) and has no comment.

Please be advised the following comment will need to be addressed in the final construction plans: A grease interceptor is required with food service industries in order to capture oils and grease from entering and potentially blocking sewer pipes, eventually causing backups in the collection system. A grease interceptor shall be installed on the sanitary sewer lateral to be privately owned and maintained by the property owner in continuously efficient operation at all times. The grease interceptor shall be of a type and capacity approved by the Authority to ensure that it is appropriate for the intended application.

*Provided for reference.*

Engineering:

No comments.